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UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF KENTUCKY

LOUISVILLE DIVISION

----------x

BROWN and WILLIAMSON TOBACCO CORPORATION,

Plaintiff,

-against- No. C-89-0470-L-B

PHILIP MORRIS INCORPORATED,

Defendant.

----------x

Deposition of JOHN NOLAN JEWELL, held at the offices of Fish & Neave, 875 Third Avenue, New York, New York 10022, on the 26th day of March, 1991, at 10:01 o'clock a.m., pursuant to notice, before Wendy D. Boskind, a Notary Public of the State of New York.

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IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be sworn to and signed before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court.

-oOo-

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JOHN NOLAN JEWELL, called as a witness, having been first sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY

MR. SECREST:

Q Dr. Jewell, would you state your name and address for the record, please.

A [redacted]

[redacted]

Q I know that you have testified on deposition before, so you know how the game goes; right?

I will ask you questions. If you don't understand them, or you have got any problem with them, just ask me and I will try to straighten it out.

As I recall, you have got a Ph.D. from the University of Louisville; is that right?

A That's right.

Q What was that in?

A Chemical engineering.

Q What year?

A 1972.

Redacted information not available for public review because of individual privacy concerns.

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Q Prior to obtaining that degree, did you have any full-time employment?

A No.

Q Once you got that degree, where did you go to work?

A At Brown and Williamson.

Q In '72?

A Yes.

Q And what was your job?

A Process engineer.

Q Was that in research and development?

A Yes.

Q When did that organization become RD&E, Research Development & Engineering?

A I don't recall.

Q It was sometime after you joined; isn't that right?

A Yes.

Q How long did you remain a process engineer?

A I don't recall.

Q Roughly, how many years?

A Oh, three to four years.

Q Then what position did you assume?

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A Division head, process development.

Q So it was sometime in the '75/'76 time frame here?

A Yes, '76 onward.

Q How long did you remain in that position?

A I don't recall precisely.

Q Ballpark?

A On the order of six to eight years.

Q And then what position did you assume?

A Director of process development and engineering.

Q That was a position you had when last I took your deposition; wasn't it? '84/'85 time frame?

A Yes.

Q I believe you were fairly recently into that position; is that right? The first time I took your deposition was in September of '84, I think you were fairly recently into that job; does that sound about right?

A In that general time frame.

Q What was your next job after director of process development?

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A Branch engineer.

Q Is that in Macon?

A That's right.

Q When did you move to Macon?

A Late '85.

Q After November of '85?

MR. NICODEMA: May I have that back again, please.

(The record was read.)

A To the best of my memory, yes.

Q When we had the trial down there in Macon, you still lived in Louisville; isn't that right?

A Yes.

Q And I am pretty sure that was November of '85.

Have you remained in Macon since that time, late '85?

A Yes.

Q Have you had any jobs, other than branch engineer, since you moved down there to Macon?

A Yes.

Q What was the next job after branch

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engineer?

A Director of engineering.

Q Is that the job you have now?

A Yes.

Q When did you assume that job?

A 1987.

Q To whom do you report as the director of engineering?

A To the executive vice president.

Q Who is that?

A Earl Kohnhorst.

Q As the branch engineer, whom did you report to?

A To the branch manager.

Q Who was that?

A Well, there were actually two branch managers during the time; Ray Hawkins and Bill Knable.

Q During this time, '84 to sometime in '85 when you were the director of process development and engineering, what was the nature of your duties?

A I was responsible for process development and process design activities.

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Q What sorts of processes did you work on during that time?

A I don't recall.

Q You worked on tobacco expansion during that time; right?

A Yes.

Q You and Kevin Korte got a patent on an expansion process during that time frame; isn't that right?

A I don't recall.

Q Was tobacco expansion your primary project during those years, '84 to '85?

A No.

Q What took up more of your time? Other than me asking you questions.

A The key responsibility was for closure of the Petersburg facility.

Q That consumed the majority of your time?

A Yes.

Q What was the next biggest activity, in terms of time, that you had during '84/'85?

A It must have been these tobacco expansion activities.

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Q Have you heard of a project at B&W called Visa?

A Yes.

Q What is Visa?

A It was a code name for one of the projects within RD&E.

Q What was the nature of that project?

A I don't recall.

Q Did it have to do with slim cigarettes?

A I don't remember.

Q Did you have any involvement with the Visa project during the time that you were the director of process development and engineering?

A I am not sure I can answer the question without more background.

Q What else do you need to know?

A You need to refresh my memory on just which project was Visa.

Q You have got no recollection at all what Visa was?

A Other than it was one of our code names for some of the many projects that were going on.

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Q What about Capri? Have you heard of Capri?

A Yes.

Q What is Capri?

A Well, Capri is a superslim cigarette that Brown and Williamson developed.

Q Does Capri have any relationship to Visa in your mind?

A No.

Q During the years that you were the director of process development and engineering, did you have any involvement with the Capri project?

A Not directly, that I can recall.

Q How about indirectly?

A Yes.

Q What was your indirect involvement with the Capri project as the director of process development and engineering?

A As I recall, I was copied on a number of the status reports for the project to keep me posted on progress in case there were some issues that would require my help.

(Discussion off the record.)

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(Recess taken.)

Q Were there some issues that required your help?

A Not that I recall.

Q And no recollection whatsoever of any such issues coming up?

A No.

Q As the director of process development and engineering, you had several people reporting to you; right?

A Yes.

Q Who were those people?

A Could you be more specific.

Q I am not sure how I can be.

Who reported to you in your position of director of process development and engineering?

A I guess I am just having trouble with the question as stated.

Q What gives you trouble with that question, Dr. Jewell?

A Well, organizations change with time.

Q When you took over that job, sometime in '84, who reported to you?

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A Ray Fernandez. I don't recall the other direct reports.

Q Strubel?

MR. NICODEMA: What was that?

MR. SECREST: S-t-r-u-b-e-l.

Q Did he report to you?

A I don't recall.

Q Korte?

A What do you mean by report to me?

Q Did work for you.

A Yes.

Q So we have Fernandez and Korte; anybody else you can remember?

A Which question are you asking me now?

Q Who reported to you when you took over that job as director of process development and engineering.

Did I misunderstand an answer there?

MR. NICODEMA: I believe the question was initially, that's how it was phrased, at the time he first took over the job.

MR. SECREST: Yes.

A I'm sorry, I am a little confused. I understood you to ask two different

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questions, who reported directly to me versus who worked for me. I interpret those differently.

Q Well, answer the first one.

Who reported directly to you?

A Ray Fernandez is the only one I can remember with certainty.

Q Now let's answer the second one.

Who worked for you?

A Well, it was a fairly large group.

Q How many people?

A I don't remember exactly.

Q Hundreds?

A No.

Q Tens?

A Yes.

Q How many tens?

MR. NICODEMA: You don't have to guess, Dr. Jewell.

A I don't recall.

Q No recollection whatsoever; is that what you are telling me?

A Yes.

Q When you left that job, as director of process development and engineering, sometime in

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late '85, who reported to you? The day before you left, who reported to you?

A Bill Buda.

Q Could you spell that.

A B-i-l-l B-u-d-a.

Q Anybody else?

A Andy Young.

That's all I recall.

Q Were either of those gentlemen, Mr. Buda or Mr. Young, more directly involved in the Capri project than you were?

MR. NICODEMA: I will object to the form of the question.

You can answer, subject to the objection.

A Could you be more specific on "directly involved"?

Q Well, you told me, your word was, that you were indirectly involved. So I want to know who was more directly involved in your group, if anyone. That's what I am getting at.

THE WITNESS: Would you repeat the question, please?

(The record was read.)

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A Not that I can recall.

Q Was anyone in your group more directly involved in the Capri project than you were?

A Not that I can recall.

Q And you said that you were copied on status reports to keep you posted about the Capri project.

Where did those status reports come from?

A From people within the company.

Q Well, I take it they came from outside your group; is that fair?

A That's my recall.

Q Can you name what other group, if there was another group, that these status reports came from?

A Yes.

Q What was the name of that group, sir?

A Product development.

Q Any other group?

A Machinery development.

Q Any others?

A Marketing.

Q Any others?

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A Not that I can recall.

Q This fellow Ray Fernandez, he left the company; didn't he?

A Yes.

Q Along about '85; is that right?

A I don't recall the date.

Q But it was sometime after you took over process development; isn't that right?

A Yes.

Q Do you know where he is now?

A No.

Q Do you know where he went when he left B&W?

A I don't recall.

Q If you wanted to know the answer to that, at B&W, whom would you go ask?

MR. NICODEMA: I will object to the form of the question; it is hypothetical, seeks opinion, speculation.

Q Did you understand my question, Dr. Jewell?

MR. NICODEMA: Plus it is after the cutoff date for this lawsuit.

Q Did you understand my question,

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Dr. Jewell?

THE WITNESS: Would you repeat the question, please?

(The record was read.)

MR. NICODEMA: Limit your answer to information at your disposal on or before May 30, 1989.

A I don't know.

Q You have been around that company 19 years and you wouldn't know where to even start looking for the answer to that question; is that what you are telling me?

MR. NICODEMA: Mr. Secrest, don't argue with the witness.

I will object to the question.

Q Can you answer my question, Dr. Jewell?

THE WITNESS: Would you repeat the question, please?

(The record was read.)

MR. NICODEMA: I will object that he has answered the question already.

MR. SECREST: I would like an answer to that question.

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Q Can you answer it?

A Could you be more specific?

Q What do you want more specific, Dr. Jewell?

I am trying to find out, if I wanted to find Mr. Fernandez, how do we go about doing it. And I am asking you, because you know that company better than I do, to tell me how you would go about doing it because that would give me some idea how to do it. From your experience at the company, I am asking you how would you go about trying to find out where Ray Fernandez is; simple question.

MR. NICODEMA: He has already answered the question.

Subject to the objections and the cutoff date, you can answer it again.

A I don't know.

Q Have you run across Mr. Fernandez since he left the company?

MR. NICODEMA: Limit your answer to on or before May 30, 1989.

A No.

Q Has anybody at B&W told you since then

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that they ran across Mr. Fernandez?

MR. NICODEMA: Again, limit your answer to May 30, 1989.

A Not that I can recall.

Q These status reports that you mentioned you were copied on, you said some came from the product development group.

Who was in charge of the product development group while you were in charge of process development?

MR. NICODEMA: You mean at any time during that period?

MR. SECREST: Yes.

A I can't be sure.

Q Give me your best information.

MR. NICODEMA: Without guessing, Dr. Jewell.

A I would have to guess.

Q Why would you have to guess at that? Was there more than one person during that time frame? Is that your problem?

A There could have been.

Q What names are rattling around up here, (indicating)?

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MR. NICODEMA: Names for what?

MR. SECREST: For the head of product development; that's what we have been talking about for five minutes.

A Lance Reynolds.

Q Anybody else?

A Tilford Riehl.

Q Tilford?

A Correct.

Q T-i-l-f-o-r-d?

A Correct.

Q R-i-e-h-l?

A Correct.

Q Is Lance Reynolds also M.L. Reynolds?

A Yes.

Q Within product development, was there a particular person who sent you these status reports while you were the head of process development?

A No.

Q Did the reports come from a variety of people within product development?

A Yes.

Q Who?

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A I don't recall.

Q You don't recall any of those names?

A No.

Q Another group that you mentioned was machinery development.

During the time you were the director of process development and engineering, who was in charge of machinery development? And if it is more than one, tell me.

A John Pittman.

Q Anybody else?

A No.

Q From within machinery development, who in particular sent you these status reports?

A I don't recall.

Q You don't recall any names whatsoever?

A No.

Q From marketing, during this same time fra , who was in charge of marketing?

A I don't recall.

Q Do you recall any names of marketing bosses during that time frame?

A I can't recall.

Q Were there any particular people

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within marketing who sent you these reports?

A Not that I can remember.

Q When you got a status report from marketing on the Capri project, in your job as the head of process development and engineering, did you read the report?

A I don't recall any specific reports.

Q What was your practice -- was it your practice to read status reports that were routed to you?

A Selectively.

Q What determined whether or not you would read a status report?

A The topic.

Q Well, if the topic were Capri would that mean you would read that status report?

MR. NICODEMA: Object to the form of the question.

You should ask him about whether he did or not, not if he didn't.

Q Can you answer my question, Dr. Jewell?

THE WITNESS: Would you restate the question, please.

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(The record was read.)

A I am not sure I know how to answer that question.

Q What gives you trouble with that question, Dr. Jewell?

A It just asked for in generalities that I am not sure I can give you an absolute answer to.

Q I am trying to figure out what your practice was; okay? And you told me some reports you would read and some you wouldn't.

And I asked you what determined it and you said subject matter and so I picked a subject matter, just kind of at random, Capri, and asked you if you would read reports on that subject matter.

What is giving you trouble about that? Is Capri too broad a subject?

A Well, a topic's importance would change in time.

Q How did the importance of Capri change during the time that you were director of process development and engineering?

MR. NICODEMA: I will object to the

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form of the question.

MR. SECREST: What is wrong with the form of that question?

MR. NICODEMA: You are assuming that it did change.

Why don't you ask him did the importance change or how it changed?

Q Okay, answer Mr. Nicodema's question.

I like mine better, but he likes his so answer his.

MR. NICODEMA: Why don't you give him a new question.

MR. SECREST: I am going to give them all to him.

Q Did the importance of Capri change during the time that you were the director of process development and engineering?

MR. NICODEMA: And I will still object to the form of the question as being vague as to what you mean by "importance."

MR. SECREST: It is his word.

Q Can you answer my question, Dr. Jewell?

A Yes.

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Q How did it change during the time that you were the director of process development and engineering?

A I don't recall.

Q You know it changed, but you don't recall how; is that what you just told me?

A No.

Q Well, let's try this again.

Did the importance of the Capri project change during the time that you were the director of process development and engineering?

MR. NICODEMA: Same objection to the question.

A I thought I had answered the question.

Q I thought you did, too, but I must have missed something; so I am asking it again. I want us to be clear on this.

Can you answer it again?

A Yes.

Q "Yes" the importance of Capri did change; is that your answer?

A No.

Q What is your answer, then?

A I don't recall.

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Q You don't recall whether or not the importance of the Capri project changed during that time frame; is that your answer?

A Yes.

Q Another group that you mentioned that you got status reports from was machinery development.

When you got status reports from the machinery development group, did you read those reports?

A I don't recall.

Q The other group you mentioned was product development.

When you got their status reports, did you read them?

A I don't recall.

Q With respect to status reports from machinery development, was it your practice to read those reports?

MR. PAULSON: Could we have that question back.

(The record was read.)

MR. NICODEMA: I believe we are still in that '84/'85 time frame.

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MR. SECREST: Yes.

A Could you clarify what you mean by "practice"?

Q Have you ever used the word "practice" before, Dr. Jewell?

A Yes.

Q Have you ever used it in the sense of custom?

A That's not normally how I use the word.

Q How about the word "custom"? Are you more comfortable with that one?

A Yes.

Q When you received these status reports from machinery development, was it your custom to read them?

A I don't recall having a custom one way or the other.

Q You received reports from a lot of people other than machinery development during your time as director of process development and engineering; isn't that right?

A Yes.

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Q Was it your custom to read the reports that came to you in that job?

A I can't recall what my custom was.

MR. SECREST: What is this cut-off date you keep talking about?

MR. NICODEMA: You don't know it?

MR. SECREST: No. I think it is absurd, so I don't remember absurdities, but what is it? If you don't mind reminding me.

MR. NICODEMA: May 30, 1989.

Q As of May 30, 1989, in the job that you have now, did you have a custom regarding the reading of reports that were sent to you?

A Not that I can recall.

Q Do you read some reports that are sent to you?

A Yes.

Q Do you not read other reports that are sent to you?

A Yes.

Q On what basis do you determine which you read and which you don't?

THE WITNESS: Would you repeat the question, please?

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(The record was read.)

A If I think the information will be useful to me.

Q Without reading the report, on what basis do you make that decision?

A The subject matter.

Q Was that your practice or custom as of May 30, 1989?

A Yes.

Q Had that been your custom as of May 30, 1989 since going back to the days when you were director of process development and engineering?

A I don't recall.

Q Do you recall that custom ever changing over the years?

A I can't recall one way or the other.

Q Back into the time frame when you were the director of process development and engineering, the status report from marketing on Capri, what subject matter would you have thought would have been useful to you and caused you to read such a report?

MR. NICODEMA: Can I have that

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question again.

(The record was read.)

MR. NICODEMA: As phrased, it sounds a bit hypothetical.

But you can answer.

A I don't recall.

Q No memory whatsoever?

A No.

Q Well, in general, you have seen marketing reports or status reports out of marketing over the years; right?

A Yes.

Q In general, marketing reports, what in there makes you think it might or might not be interesting or useful to you and cause you to read such a report?

A Normally, if they were projects that required my group's direct involvement.

Q Was Capri one of those projects?

A Could you be more specific?

Q I am not sure I know how, Dr. Jewell.

Can you tell me what is unspecific about that question that gives you trouble?

A That answer can change with time.

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Q I am talking about the time when you were director of process development and engineering, sometime in '84 to late '85.

THE WITNESS: Would you repeat the question.

MR. SECREST: Can you go back and pick up that question.

(The record was read.)

A Not that I can recall.

Q During the time that you were director of process development and engineering, did anybody in your group work directly on the Capri project?

A Not that I can recall.

Q Was there any process development involved in the Capri project while you were director of process development and engineering?

A Not that I recall.

Q Did your group, process development and engineering, have any role in packaging development?

MR. NICODEMA: Is this for Capri, once again?

MR. SECREST: Yes, for Capri.

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A Not that I can recall.

Q Did your group have any role in packaging development for anything other than Capri?

A Not that I recall.

Q While you were the head of -- director of process development and engineering, to whom did you report?

A The vice president of RD&E.

Q Was that Mr. Kohnhorst?

A Yes.

Q Was it Dr. Sanford for a while, also?

A No.

Q What was his job back then?

MR. NICODEMA: I think he means Dr. Sanford.

MR. SECREST: Yes, that's what I mean.

A I don't recall.

Q Did Dr. Sanford have any role in the Capri project?

A I don't recall.

Q Has Dr. Sanford retired from the company now?

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A Yes.

Q Do you know when he retired?

A I don't recall.

Q Do you know where he is now?

A No.

Q Is he still a consultant to B&W?

A Not to my knowledge.

Q Have you consulted with him since he retired?

MR. NICODEMA: And limit your answer up through May 30, 1989.

A Not that I can recall.

Q Do you know anyone at the company who has consulted with him since he retired?

MR. NICODEMA: The same limitation as to the time period.

A I can't be sure.

Q Give me your best information.

A I don't have anything I can be certain of.

Q I am not asking for certainty, Dr. Jewell, I don't need certainty. I am just looking for your best information; okay? I don't want a wild guess.

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But if you have some reasonable information, I would like to have it, and I am entitled to it.

A I just can't be sure.

Q Can you tell me what it is you are thinking about up there, (indicating)? You look like you've got some name in your head of somebody you think may, or probably or whatever, did consult with Dr. Sanford, and that's what I am looking for.

MR. NICODEMA: Again, with the qualification you should not guess.

A I am aware that Dr. Sanford was a consultant. But I have no direct memory of what he worked on or with whom.

Q What is "direct memory"?

A I wasn't involved.

Q Do you have any indirect memory, then?

A Of what?

Q Of what you were just talking about, whom he talked to or what he was talking about.

A No.

Q While you were the director of process

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development and engineering, I think you told me you reported to Earl Kohnhorst; right?

A Yes.

Q Was that true throughout your entire tenure in that position?

A Yes.

Q Lance Reynolds and Tilford Riehl, in product development, did they also report to Mr. Kohnhorst?

A I am not sure.

Q Product development group was a part of RD&E; wasn't it?

A Yes.

Q And Kohnhorst was the boss of RD&E; right?

A Yes.

Q Was there some level of supervision between Reynolds or Riehl and Kohnhorst?

A Not that I recall.

Q So is it fair to say your best recollection is they reported directly to him; is that fair?

A I guess I am having trouble answering this question because I don't clearly recall which

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one of those gentlemen was in charge.

Q Okay, let's eliminate that uncertainty.

Whoever was in charge of product development reported to Earl Kohnhorst; isn't that true?

A Yes.

Q Is the same true of Mr. Pittman, for machinery development?

A Yes.

Q This person in marketing, whose name you couldn't recall, did that person report to Earl Kohnhorst?

A No.

Q Was marketing within or without RD&E?

A It was outside of RD&E.

Q Did RD&E have any marketing group within it?

A Not that I can recall.

Q Was there a market research group in RD&E?

A Not that I can recall.

Q Was this marketing outfit that you talked about getting status reports from a whole

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different organization within B&W from RD&E?

A Yes.

Q Was it like a co-equal division, for want of a better word, with RD&E?

A Yes.

Q Did it have a vice president of the equal stature with Mr. Kohnhorst in the organization?

A Yes.

Q Who was that?

MR. NICODEMA: During '84/'85?

MR. SECREST: Yes.

A I don't recall.

Q While you were the director of process development and engineering, did Mr. Kohnhorst have regular meetings of his directors?

A I don't recall.

Q Did he ever have meetings of his directors?

A I don't recall.

Q You have no recollection of going to any meetings of the directors with Mr. Kohnhorst?

A No.

Q Is that what you are telling me?

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A Correct.

Q How did Mr. Kohnhorst supervise his department?

A Could you clarify "supervise"?

Q Did he ever talk to you?

A Yes.

Q Did he ever talk to you in a group with the other directors?

A Not that I can recall.

Q Was there any mechanism within RD&E to cross-pollinate the directors to tell each other what different groups were working on?

A I can't recall.

Q Well, while you were the director of process development and engineering, were you aware of what the product development guys were doing?

A What do you mean by was I "aware"?

Q Have you ever used the word "aware" before, Dr. Jewell?

A Yes.

Q What does it mean to you?

A Knowledge of.

Q With that definition, while you were

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the director of process development and engineering, were you aware of what the product development guys were doing?

A Again, I could answer that question a couple of different ways; depending on how specific I interpret that.

Q Well, interpret it however specifically you want to and give me your answer.

A No.

Q How specifically did you interpret the word "aware" in giving me that answer?

A A detailed understanding of the specific projects going on within product development.

Q What other less specific interpretation of the word "aware" do you have in mind?

A Something that would be more cursory.

Q With that less specific interpretation of the word "aware," were you aware of what the product development guys were doing while you were the director of process development?

A Yes.

Q How did you become so aware during

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that time?

MR. NICODEMA: Can I have the question back again.

(The record was read.)

MR. NICODEMA: It is just phrased a little funny. I think you mean "aware" in accordance with his definition of it?

MR. SECREST: Yes.

MR. NICODEMA: A cursory type of definition.

MR. SECREST: Yes, that's what the English language means, I think; so "aware."

MR. NICODEMA: It could mean something else.

Q Can you answer my question, sir?

A Status reports would be one mechanism.

Q What is another?

A I can't recall others.

(Recess taken.)

Q Just to get us back up to speed here, Dr. Jewell, we were talking about how did you learn, to whatever degree you learned, what product development people were doing. You said status reports was one way, you didn't remember

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any others. Fair?

A Correct.

Q Did you ever just wander into the office of the boss of product development and shoot the breeze with him about what they were doing?

A Yes.

Q Who was that person that you wandered in on?

A Lance Reynolds.

Q Was it ever Mr. Riehl?

A Not that I can recall.

Q Let me see if I understand. I have just been kind of reading between the lines here.

It seems to me like Lance Reynolds was the director of product development at some time while you were in process development, and at some other time later he was replaced by Mr. Riehl; is that right?

I am just trying to get the succession order there.

A At some point, Tilford took over as head of product development.

Q So it was first Reynolds, second

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Riehl; right?

A Correct.

Q And the uncertainty is when that changeover occurred?

A Correct.

Q While we were talking about something else, another name popped into my head of a guy you might remember, Dave Gordon. He worked for you; didn't he?

A Are you referring to a certain time period?

Q Yes, while you were director of process development and engineering.

A I don't recall.

Q Didn't he work on the MET process for you? Or DIET? Whatever you want to call it.

A Yes.

Q So he was a member of process development while he worked for you on expanded tobacco; isn't that right?

A Yes.

Q Did he work on the Capri project any while he worked for you?

A Not that I recall.

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Q While you were the director of process development and engineering, were you aware of what the machinery development guys were doing?

A Again, what context of "aware"?

Q Well, you can answer it with those same levels of specificity that you did before, if you would like, if you are comfortable with that.

A No.

Q Now the next general level.

A I assume you mean for me to answer the more general level of awareness.

Q Yes, sir, please.

How did you attain that more general level of awareness of what the machinery development guys were doing?

A Through status reports.

Q Any other way?

A Not that I can recall.

Q Did you ever wander into Mr. Pittman's office, or he wandered into yours, and just shoot the breeze about what your two groups were doing?

A Not that I can recall.

Q Did you ever talk to Mr. Pittman at all?

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A Yes.

Q Was he in Louisville with you?

A Yes.

Q In the same building?

A Yes.

Q In the same area of the building?

A Yes.

Q Did you talk to him about what projects he was working on?

A Not that I can recall.

Q Did the machinery development group work on any machines for the Capri project?

A Yes.

Q What machines did they work on?

A Could you be more specific?

Q What is not specific about that question that troubles you?

A I am not sure if you are asking a generic or a specific question.

Q Well, let's take generic first.

What generic machines did the machinery development people work on for the Capri project?

A Making and packing.

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Q What specific machines did the machinery development people work on for the Capri project?

A I am not sure.

Q Now the difference between "generic" and "specific," where does that fall in your mind?

Where do you draw the line between those?

A Functionality versus type of equipment.

Q A maker, in your mind, is generic; right?

A Yes.

Q What would be an example of specific?

A A Garant 4, a Maker, a Mark VI, Mark IX Maker.

Q Different brand names, or suppliers; is that what makes a difference to you?

A That would be one.

Q What other things would make a difference to you?

A Location.

Q Excuse me?

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A Location.

Q What about location would make a difference?

A Are you talking about a specific machine? 101 in the development center? 102?

Q I am not sure I understand what you mean there. Can you explain it to me a little better?

A Well, within a type of machine you could be talking about a specific machine.

Q I see. A Garant; right?

A Correct.

Q You might have two or three of them in your pilot plant or whatever; is that right? Is that what you mean?

A Correct.

Q While these machinery development people were working on machines for the Capri project, did your group work on any processes for those machines to carry out?

A Not that I can recall.

Q Was your group the responsible organization in B&W for manufacturing process development?

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MR. NICODEMA: Can I have that question again?

(The record was read.)

MR. NICODEMA: I am not sure what you mean by "manufacturing process development."

Q Do you understand my question, Dr. Jewell?

A No, I don't.

Q What about my question do you not understand?

A I had the same point of confusion.

Q The name of your group was process development; right?

A Correct.

Q And engineering?

A Correct.

Q What was the purpose of developing processes in your group? If, in fact, that's what they did.

A They dealt with what we referred to as primary process development.

Q Can you define "primary process development" for me, please?

A Development of processes pertaining to

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the primary department.

Q Excuse me, to the what department?

A Primary department.

Q What is the primary department at B&W?

A It consists of the processes that deal with tobacco from raw tobacco up to the point of fabrication.

Q Was there a group at B&W that had responsibility for processes after the cutoff of the primary department?

A That's not a terminology that I am familiar with.

Q What in that terminology are you not familiar with?

A Normally I don't refer to things outside of primary as "process development."

Q Well, once the tobacco comes out of the primary department and goes on to the manufacturing floor -- right?

A Yes.

Q -- there are manufacturing processes carried out there; isn't that right?

A Well, again, that is not a terminology

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that I would use.

Q What happens to that tobacco after it comes out of primary?

A It is fabricated.

Q And there are processes that are carried out on the tobacco during fabrication; right?

A Well, again, that is not a terminology that I would use.

Q What do you call it after the tobacco comes out of primary -- I started to say "primary processing," that is what it is called in Richmond -- after it comes out of your primary department, what do you call what happens to the tobacco from then until it is put into a package?

A Fabrication.

Q Is there a group at B&W in charge of fabrication?

A Could you be more specific?

Q I don't know how to be, because I don't know how your organization is set up down there.

But is there some outfit that is in charge of what happens to the tobacco from the

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time it comes out of primary?

A Yes.

Q What is that group?

A The fabrication department of manufacturing.

Q Within the fabrication department, is there any sub-group charged with developing fabrication techniques?

A No.

Q Or improving fabrication techniques?

A Yes.

Q What group is in charge of improving fabrication techniques?

A Maintenance group.

Q Does the maintenance group, at B&W, work on techniques that the machinery development group's machines are to carry out?

THE WITNESS: Would you repeat the question, please?

(The record was read.)

A I don't understand the question.

Q Well, we are even, then, because I am not sure I am understanding your answers, Dr. Jewell.

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Let me tell you what I understand.

As a general proposition, if some guy tinkers and builds a machine, maybe there is some other guy who works and designs the process that that machine fits into.

Is that a fair understanding of how things end up on a factory floor?

A Well, again, I find your terminology confusing.

But, normally, there is one group that does development and one group that is responsible for running it.

Q Well, see, what I am getting at, a machine that Mr. Pittman's group may design or modify, or whatever, a machine to me doesn't make any sense unless it is put into a process somewhere.

And what I am trying to find out is who was responsible for the process that this machine fits into.

Am I making sense to you?

A No.

Q Have you ever used the word "manufacturing process"?

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A I can't recall.

Q How about "fabrication process"?

A I don't recall.

Q Let me come at it this way.

Down in your factory in Macon, tobacco comes out of primary, as I recall it was in some kind of pneumatic conveyers; right? Is that right?

A Correct.

Q And filter toes come from somewhere else, and cigarette paper comes from somewhere else, tipping paper and glue, they all come together at a maker; right?

A Correct.

Q Is there some group that is in charge of the technique by which all of those components are brought together at the maker?

A What do you mean by "technique"?

Q The layout, the plan, the workings of how all these different components come together; that's what I am getting at.

A Perhaps I can help. My confusion, again, this is for the same time period that we are referring to?

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Q No, I am backed off, I am trying to find more generally some information of how this stuff fits together.

And I told you it seemed to me that, you know, a guy builds a machine, somebody else is working on a process that machine is eventually going to fit into and carry out some function in the process.

And I am still trying to find out who that other guy is.

And for any time frame right now, I will be happy, subject to his cutoff.

A Again, I am having trouble formulating an answer.

If you could perhaps rephrase the question.

Q Let me come at it this way.

These machinery development guys that worked for Mr. Pittman, you said on the Capri project they worked on makers and packers; right?

A Correct.

Q They did something to a maker machine and, eventually, a maker machine ended up on the floor in Macon; right?

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A That's correct.

Q Now they didn't just back up a flatbed truck and roll it off into the factory. Somebody told them the maker machine goes here, (indicating), and it hooks into this pneumatic conveyer and this thing and that thing and it goes out this way.

Who is the person who is responsible for determining where that machine goes and how it hooks up into the fabrication process?

A I don't recall.

Q Is there a group that is responsible for that activity?

A Could you be specific as to the time frame?

Q Any time up until his cutoff.

A Yes.

Q What is the name of that group?

A Engineering department.

Q And since '87 that has been your group; right?

A Correct.

(Luncheon recess taken: 12:10 p.m.)

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A F T E R N O O N S E S S I O N

March 26, 1991

(1:30 p.m.)

J O H N N O L A N J E W E L L , having been previously sworn, resumed and testified further as follows:

EXAMINATION (cont'd.)

BY MR. SECREST:

Q Just before lunch, we were talking about who the guys are that fit machines into the floor in Macon. And I think we established that since '87 it was your group; right?

A Correct.

Q Before '87, when you were branch engineer, did you have responsibility for that same sort of activity?

A No.

Q What were your responsibilities and duties when you became branch engineer sometime in late '85?

A Branch engineering, maintenance, and computer systems.

Q What do you mean by "branch

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engineering"?

A The engineering functions required to keep the plant running.

Q Were you responsible for the engineering functions of the entire plant?

A Yes.

Q And that included primary; right?

A Yes.

Q The fabrication facility; right?

A Yes.

Q What else?

A Anything at the Macon plant site.

Q Steam plant?

A Yes.

Q What other big components are there besides those three we have identified? Just the major hunks of it.

A Shipping and supply.

Q Since you became director of engineering in Macon, have your duties changed any from what they were then?

A Yes.

Q In what way have they changed?

A They have expanded.

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Q What more is encompassed within your duties than was within them as branch engineer?

A The design functions and machinery development.

Q With respect to machinery development, do you work with the machinery development guys in RD&E?

A I am not sure I understand the question.

Q What is it you don't understand about my question?

A I just can't answer it the way it is phrased.

Q Well, is there still a machinery development group in RD&E?

A No.

Q When did that group cease to exist?

A 1987.

Q Did your group at that time assume the functions that had previously been carried out by machinery development in RD&E?

A Yes.

Q Did all those people transfer to your group at that time?

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A No.

Q Did some of them transfer to your group?

A Yes.

Q What happened to the rest of them?

A They were absorbed within our functions at R&D.

Q The people that transferred to your group, did they physically relocate to Macon?

A Yes.

Q From the time you assumed the job as branch engineer in Macon, were you involved in the Capri project?

A Can you explain what you mean by "from the time"?

Q Since late '85, when you became the branch engineer, have you been involved in the Capri project?

A Yes.

Q What's been the nature of your involvement in the Capri project?

A Equipment acquisition and installation.

Q What kinds of equipment have you been

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involved with acquiring?

A Makers and packers.

Q Have these pieces of equipment been specifically made to build Capri cigarettes? Or build and pack, I guess would be the....

A Yes.

Q When did you first begin acquiring equipment for the Capri project?

A I don't recall.

Q Was there any equipment in place in Macon when you moved down there in '85?

A Not that I recall.

Q When did you begin installing equipment in Macon for the Capri project?

A I don't recall.

Q Was it before you became the director of engineering?

A I don't recall.

Q One of the pieces of equipment that you mentioned was makers.

Where did you acquire the makers from or, maybe better, from whom did you acquire the makers?

A Hauni.

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Q Any other source for makers?

A Not that I can recall.

Q What's the model number of the Hauni makers you acquired for the Capri project?

A I don't know.

Q In your office, in Macon, do you have catalogs from Hauni?

MR. NICODEMA: You mean as of May '89?

MR. SECREST: If you want to have it as to that, okay.

A What do you mean by "office"?

Q Do you have an office, Dr. Jewell?

A Yes.

Q Do you have a bookshelf or a file in that office?

A Yes.

Q Do you have catalogs on that bookshelf or in that file?

A No.

Q Do you have access to Hauni catalogs in Macon?

A Yes.

Q Where are Hauni catalogs maintained in

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Macon?

MR. NICODEMA: Again, as of May '89.

A I don't know.

Q Have you ever looked at a Hauni catalog?

A Not that I can recall.

Q But you know, I think you told me, that there are Hauni catalogs in Macon; is that right?

A Yes.

Q How do you know that?

A I have heard them referred to.

Q By whom?

A I don't recall.

Q Is there an engineering library in Macon?

MR. NICODEMA: Same qualification as to the cutoff date in the question.

A Yes.

Q Have you ever been in that engineering library?

A Yes.

Q Are there catalogs from machinery makers in that library?

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A Yes.

Q Are there Hauni catalogs in that library?

A I don't know.

Q Is that library part of your responsibility as director of engineering?

A What do you mean by "responsibility"?

Q Have you ever used the word "responsibility" before?

A Yes.

Q What do you mean by it when you use it?

A I have meant different things.

Q Okay. Well, give me a definition you are comfortable with.

A Well, in this context, the person that would stock the library.

Q That would do what? I'm sorry.

A Stock the library.

Q With that definition, are you responsible for that library?

A No.

Q Is there a person at B&W who, with your definition, is responsible for that library?

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MR. NICODEMA: Again, as of May '89.

A Yes.

Q Does that person work in your organization?

A No.

Q For whom does that person work?

A R&D.

Q Do you know the name of that person?

A Yes.

Q Who is it?

A Carol Lincoln.

Q Dr. Jewell, back in February we served some document requests on B&W and one of them read: "All documents constituting or concerning any of Hauni-Werke's catalogs dated August 1976."

Was this engineering library in Macon searched to see if there were any documents responsive to that request?

A I have no knowledge of that one way or the other.

Q At the same time we served a document request that said: "All documents constituting or concerning any of Molins' or Molins' of India Ltd.'s catalogs."

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Was the engineering library in Macon searched for documents responsive to that request?

A I have no knowledge one way or the other.

Q Same question with respect to Molins' Machine Company Ltd. Mark V cigarette making machine documents.

A I have no knowledge one way or the other.

Q These Hauni makers, that you acquired in your role as -- let me back up just to be sure I understand.

Did you acquire the Hauni makers in your role as branch engineer or director of engineering?

A Director of engineering.

Q So, then, those acquisitions would have been sometime in or after '87; is that right?

A Yes.

Q Prior to '87, were there makers in Macon adapted to make Capri cigarettes?

A I don't recall.

Q When was the Capri cigarette first

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made in Macon?

A I don't recall.

Q Was it when you were branch engineer?

A I don't recall.

Q Was it when you were director of process development and engineering?

A I don't recall.

Q Were Capri cigarettes being made in Macon when you moved there?

A Not to my knowledge, I just don't recall.

Q Just to make sure we are clear, there is no confusion, when I say "when you moved there," to Macon, what I mean is when you took the job in Macon. I don't know when you actually picked up your family and moved down there.

You understood my question to be when you took the job down there; right?

A Yes.

Q For all I know, you still commute -- no, you gave us your address, you are in Macon.

The machines that were in Macon as of May of '89, for making Capri cigarettes, are they all Hauni machines?

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A I believe that's correct.

Q The machines that you acquired to make Capri cigarettes, what are the differences, if any, between those machines and the machines that make other brands of B&W cigarettes?

A They have been modified for the super thin product.

Q In what way have they been modified?

A To make the smaller circumference cigarette and to attach the smaller filter.

Q That's the result.

What I want to know is how have the machines been modified to accomplish that result.

A The various parts involved in making the cigarette rod and attaching the filter have been modified.

Q What are those parts?

A I don't know.

Q You don't know any of them?

A I am not an expert on the machine specifics.

Q Well, I am glad to hear you say that but can you answer my question now?

A Could you rephrase the question?

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Q I want you to name any of the parts that you know of in this machine that were modified so as to make the machine build Capri cigarettes rather than Barclays, for example.

MR. NICODEMA: Can you read that back, please.

(The record was read.)

A Well, obviously, this isn't an expansive list because I am just not knowledgeable in the area.

But I do know that the garniture was one of those modified pieces of equipment.

Q Any other part that was modified?

A Not that I could name.

Q In what way was the garniture modified so as to make the machine build Capri cigarettes as opposed to Barclays, for example?

A It had to be designed for the smaller circumference.

Q And what did that design for a smaller circumference entail?

A I don't know.

Q Was that design of the garniture carried out at B&W?

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A I am not sure.

Q What is your best information on that score?

MR. NICODEMA: And without guessing.

A That Brown and Williamson did do some garniture design work of its own.

Q Did somebody else do some garniture design work?

A I am not sure.

Q Who within Brown and Williamson did this garniture design work?

A I am not sure.

Q Was it done in the engineering department in Macon?

A No.

Q Was it done in the machinery development department of RD&E?

A Yes.

Q Who within machinery development worked on this garniture design?

A I am not sure.

Q Was Mr. Pittman the head of machinery development when this work was done?

A Yes.

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Q Going back, we have been talking about makers here for a while, I think you told me you also were involved in acquisition of packers for the Capri project; is that right?

A Yes.

Q From whom did you acquire the packers for use in the Capri project?

A From CME and GD.

Q Who is CME?

A It is a machinery firm in England.

Q Does that CME stand for Colin Mear Engineering? Or Colin Mear something? I am not sure what the "E" is.

Does that ring a bell?

A I can't be certain.

Q Who is GD?

A It is a packaging machinery firm in Italy.

Q What are the differences, if any, between packers acquired from CME and GD for the Capri project and packers that are used in Macon for other cigarettes?

A Well, they were designed specifically for the Capri size.

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Q What parts of the machine are different, if any?

A The size parts and those associated with the spacer.

Q What are the names of those parts?

A I don't know.

Q Have we exhausted your expertise on these machines?

A Yes, I think so.

Q Have you ever seen a Capri cigarette before?

A Yes.

Q What are the differences, if any, between a Capri cigarette and a Kool?

That is a B&W brand; isn't it? Kool?

A Yes.

Q What are the differences, if any, between those two?

A Well, this isn't an expansive list but, it is obviously smaller, has less weight, has higher draw characteristics, and is much more efficient than a normal size cigarette.

Q Anything else?

A Nothing that comes to mind.

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But, again, I am not an expert in product design.

Q In what way is a Capri smaller?

A It has a different circumference.

Q Anything else smaller about it?

A The pack.

Q I am just talking about the cigarette now.

A Well, obviously, the filter is smaller.

Q Smaller in what way?

A Circumference.

Q Is the length of the plug the same?

A I don't know.

Q You said the Capri has less weight. Is that a function of having a smaller circumference?

A I am not sure how that worked within the product development group.

Q What do you mean by that, sir? How what was worked?

A Circumference, weight, are independent variables.

Q Completely independent, in your view?

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A In a broad sense, yes.

Q Going back in time, to around the time frame you and I were together last, '84/'85, B&W was making expanded tobacco; right?

A Yes.

Q And B&W put expanded tobacco in every cigarette they made; didn't they?

A No.

Q Which ones did you not put expanded tobacco in?

A To the best of my memory, it was not in our generic products.

Q When did you start making the generics?

A I don't recall.

Q Does Capri have any expanded tobacco?

A Not to my knowledge.

Q Does B&W put stems in its cigarette blends?

A Yes.

Q Does B&W put stems in Capri?

A Not to my knowledge.

Q Does B&W put reconstituted tobacco in its cigarette blends?

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A Yes.

Q Does B&W put recon in Capri?

MR. PAULSON: What is "recon"?

A I am not sure.

Q Did you understand, when I said "recon," I meant reconstituted tobacco?

A Yes.

MR. NICODEMA: As opposed to recognizance mission?

A That is a term that we use.

Q Now this less weight aspect of Capri, is that affected by the presence or absence of expanded tobacco?

MR. NICODEMA: I will object to the form of the question. I think it is vague.

Q Did you understand my question?

A I think I do. But I am not sure it makes sense, given the questions I have already answered.

I think I have answered the question.

Q Well, I haven't asked that question before. So if you answered it you answered something I didn't ask you.

I am happy to have that, but can you

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answer the question I asked you?

THE WITNESS: Would you repeat the question, please?

(The record was read.)

A I really don't understand the question.

Perhaps you can rephrase it.

Q Well, isn't it a fact, Dr. Jewell, that, all other things being equal -- circumference, density, et cetera, firmness -- a cigarette with expanded tobacco will weigh less than one without?

A No.

Q Why does B&W use expanded tobacco?

MR. NICODEMA: This, again, is prior to the end of May '89.

A To either reduce weight or improve firmness.

Q So if you add expanded tobacco to a blend, the cigarettes made from that blend will weigh less than they otherwise would have; isn't that right?

A No.

Q Explain to me why that is wrong.

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A Just because you put expanded tobacco in doesn't require you to take a weight reduction.

Q But you, in fact, do take a weight reduction; don't you?

A I can't generalize that.

Q Does the presence or absence of stems in a blend affect weight? All other things being equal.

MR. NICODEMA: I will object to the form of the question.

If you want to ask him in terms of a specific product, I don't mind.

MR. SECREST: I don't want to ask him that.

MR. NICODEMA: Asking in general, you are asking for opinion testimony.

MR. SECREST: I am entitled to do that.

MR. NICODEMA: No, you are not. I object to the form of the question. This is a fact deposition.

Q Can you answer my question, Dr. Jewell?

MR. NICODEMA: You can answer subject

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to the objection.

Why don't we read it back.

(The record was read.)

A No.

Q Does the presence or absence of reconstituted tobacco in a blend affect weight? All other things being equal.

MR. NICODEMA: The same objection to the question.

A No.

Q You mentioned another difference in Capri, which is higher draw characteristics. What does that mean?

A Cigarette pressure drop.

Q What does that mean?

A The pressure drop across a cigarette when it is tested.

Q How is that pressure drop measured?

A With a pressure drop machine.

Q Have you ever performed that measurement on a Capri?

A No.

Q Have you performed it on any other cigarette?

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A No.

Q How do you know that the Capri has a higher draw characteristic?

A I have heard it discussed.

Q By whom?

A I don't recall.

Q When?

A I don't recall.

Q Where?

A I don't recall.

Q What is the pressure drop across a Kool 100?

A I don't know.

Q What is the pressure drop across a Capri?

A I am not sure.

Q How do you know they are different?

A I have no firsthand knowledge of that.

Q Have you seen documents that reflect this difference that you believe exists?

A I don't recall.

Q Does a higher draw characteristic, as you used that term, indicate a greater pressure drop or a smaller pressure drop?

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A A higher pressure drop.

Q A greater pressure drop, to use my term; right?

A Yes.

Q What is the advantage, if any, to having a greater pressure drop?

A I don't know.

Q Is there any advantage to having a greater pressure drop?

A I don't know.

Q Why does a Capri have a greater pressure drop?

A I don't know.

Q What factors in the cigarette design cause the Capri to have a greater pressure drop?

A I don't know.

Q You told me one of the differences between Capri and Kool was that it had a higher draw characteristic which translates to a greater pressure drop; right?

A Yes.

Q But you couldn't quantify that difference; right?

A Correct.

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Q And you don't know why it occurs; right?

A Correct.

Q You don't know what causes it; right?

A Correct.

Q You don't know if it is an advantage or not; right?

A Correct.

Q Does it really exist?

MR. NICODEMA: I believe that has been asked and answered. I will object.

Q Can you answer my question, Dr. Jewell?

A Yes.

Q Would you do so, please.

A I have no firsthand knowledge of the subject.

Q And you can't tell me what the source of your knowledge was; isn't that right?

A I can't recall.

Q Now you mentioned a fourth and final difference, which was greater efficiency --

MR. NICODEMA: Finish your question, then I will say what I am going to say.

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MR. SECREST: Go on and say it. You got a problem with what I said so far, I want to hear it.

MR. NICODEMA: I sure do, you said "fourth and final."

Q How many did you name, Dr. Jewell? How many differences did you give me? Four; right?

MR. NICODEMA: He said that was not intended to be an expansive list. You are putting a characterization on his answer that does not exist.

Q Okay, Dr. Jewell, start naming differences, and name until you run out.

MR. NICODEMA: He already answered that.

MR. SECREST: I want to hear them all.

MR. NICODEMA: He answered the question.

Q Dr. Jewell, you have been sitting there thinking for a while, I want to hear more differences.

Your lawyer thinks there are more maybe. If he wants to testify, I will take his

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deposition later.

But I want to know every difference that you can think of, and take all the time you want.

This is a matter of some importance to me, as you might gather.

I got four so far. Can you come up with anymore?

A As I said earlier, I am not a product expert and I am sure this isn't an expansive list. But that's all that occurs to me.

When you asked the question, none have occurred to me since.

Q So, for the purposes of your testimony, the efficiency is the final difference; right?

A Yes.

Q Now this fourth and final difference that you mentioned, which was greater efficiency, what does that mean?

A That the cigarette contains much less tobacco and yet is accepted by consumers as a cigarette.

Q Have you ever heard of a thing called

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a Lilliput cigarette?

A No.

Q Well, I read about it in the Guinness Book of World Records, it was about an inch and a half long and I think skinny, I don't know, but it contained a lot less tobacco yet was accepted by consumers in England as a cigarette.

Would it therefore, by your definition, be efficient?

MR. NICODEMA: Let me have that question back.

(The record was read.)

MR. NICODEMA: First of all, his testimony was in connection with the Kool cigarette.

Second of all, we don't accept your characterization of whatever product you are talking about.

We will object on that basis.

Q You have heard his objection. Can you answer my question?

A No.

MR. NICODEMA: Object to the --

Q You can't answer it?

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A No.

Q Have you ever heard of a cigarette called Ten Cent brand?

A No.

Q It was made in Kenya by B.A.T., or the East Africa Tobacco Company.

Does that refresh your recollection?

A No.

Q Have you ever heard of Benson and Hedges Russian No. 1's?

A No.

Q Benson and Hedges Russian No. 3's?

A No.

(Recess taken.)

Q To start us up again, Dr. Jewell, can you state your definition of "greater efficiency" again?

MR. NICODEMA: Asked and answered.

But you can answer it again.

A Again, I am answering as a layman, I am not an expert in product development.

But what I meant by it is that it contains less tobacco and is perceived by the consumer to be a good smoking cigarette, therefore

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it is more efficient.

Q Can you quantify the degree, if any, by which you understand Capri to be more efficient than other B&W brands?

A No.

Q Do you have any information in that regard whatsoever?

A No.

Q Have you ever smoked a Capri cigarette?

A Not that I can recall.

Q Have you ever talked to anybody that smoked one?

A Yes.

Q Did they consider it to be a good smoking cigarette?

A Yes.

Q Did any of the persons with whom you talked not consider it to be a good smoking cigarette?

A Not that I can recall.

Q Were any of these persons with whom you talked not B&W employees?

A Not that I can recall.

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Q What is the operating committee at B&W?

A Again, could you be more specific?

Q What is it about that question that is not sufficiently specific for you to be able to answer it?

A As asked, I could have multiple answers.

Q Well, give me all of them.

A Well, two answers would be: I am not aware of an operating committee; there once was an operating committee of Tommy Sandefur's reports.

Q Of what?

A Tommy Sandefur's reports.

Q What do you mean by that?

A People that reported to him in the organization.

Q Were you one of those persons?

A Yes.

Q Who else was on the operating committee when you were on the operating committee?

A His other direct reports.

Q Who were those people?

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A Harry Roeder, John Bullis, Bob Fitzmaurice, Nick McGraw.

That's a partial list. I don't recall the others.

Q Mr. Sandefur was president; is that right?

A Correct.

Q Chief operating officer?

A Yes.

Q And Mr. Pritchard was CEO; is that right?

A Correct.

Q Does this operating committee no longer exist?

A Correct.

Q When did it cease to exist?

A Within the last few years.

Q How many is a "few"? Two? Six?

A Within the last couple of years.

Q Did you become a member of this committee when you became the director of engineering?

A Yes.

Q Were you a member of this committee

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before then?

A No.

Q Who was your predecessor as director of engineering?

A There was none.

Q That change in positions for you, from branch engineer to director of engineering, was that more a change of title? Or was it, in fact, a change of jobs?

A It was a change of job.

Q But the position was created when you took it; is that right?

A Correct.

Q The additional responsibilities that you took over, between being branch engineer and director of engineering, who had done those additional things before?

A There was not a person.

Q Were there several persons?

A Yes.

Q Who were they?

A I am having trouble reconstructing what the exact organization was there.

Q Can you name any of these people?

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A Yes.

Q Name as many as you can.

A Richard Harris, John Pittman.

I am just not sure if there were other functions that were outside of their domain or not.

Q What was Richard Harris's job before you took over his responsibilities?

A Branch engineering.

Q So you and he both were branch engineers at the same time; is that right?

A No.

Q You confused me.

What I am trying to get at, you said when you went from being branch engineer to being director of engineering you took on additional responsibilities; right?

A Correct.

Q And those responsibilities, before you got that promotion, had been taken care of by other people; is that right?

A Correct.

Q And I thought you said Richard Harris was one of these other people.

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A Correct.

Q So what were his duties that you took over from him?

A I see. As you were going through that, I just realized that I had the organization wrong, as I was thinking about it.

Richard Harris was in Macon when I took over the job at that point in time. So I was in error giving you his name.

Again, the organization has changed so many times in this period of time I have to think carefully about what the sequence of events was. So I had that wrong before.

Q So Richard Harris was in Macon when you went from Louisville to Macon; is that right?

Is that what you told me?

A Yes.

Q What was Harris doing when you became director of engineering?

A He was manager of the primary department in Macon.

Q Is that in the manufacturing side as opposed to engineering?

A Correct.

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Q So he didn't work for you then; is that right?

A Correct.

Q And he had been branch engineer at some time before that; is that right?

A Correct.

Q Did you replace him as the branch engineer?

A Yes.

Q Now we got you replacing Harris.

Now a year or two later, about two years later, didn't you get promoted to director of engineering and take on some more responsibility; right?

A Yes.

Q And at least one person whose responsibilities you took on then was Pittman; is that right?

A Again, are you talking about the function or the person?

Q The function.

A Yes.

Q And this is the same Pittman that was in charge of machinery development?

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A Yes.

Q When you were at process development; right?

A Yes.

Q So now machinery development is part of your group?

A Yes.

Q Is there anything else, functions, that you took on when you got this promotion or any other person's functions that you took on besides Pittman?

A Yes.

Q Who?

A Process development and engineering.

Q Now you really got me confused. Let me see if we can figure it out.

Correct me if I am wrong, I am sure you will, in your job in Macon as director of engineering, from what you have told me, you are responsible for all the engineering in that factory plus process development and engineering in RD&E; is that right?

A No.

Q Where did I screw it up?

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A The terminologies that you are using don't make any sense.

Q Well, what is this process development and engineering that you took on when you became director of engineering?

A That's basically the function that I left when I was in Louisville.

Q Yes, I know that.

Let me go back now. I am not sure this is all that important, but I am confused as hell.

You are branch engineer, then you get promoted in '87, and you take on some more responsibilities, and I thought -- one of those was machinery development; right?

A Correct.

Q I thought you just told me process development and engineering was another of them; is that right?

A Correct.

Q Is that the same process development and engineering that you ran in Louisville?

A Yes.

Q Is it still within RD&E?

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A No.

Q It is under your operation now?

A Yes.

Q Anything else that you took on then?

A Not that I can recall.

Q Did the process development and engineering function actually pick up and move to Macon when you took it over again?

A Yes.

Q Did all the people go with it?

A Yes.

Q And machinery development people, you said some of those went to Macon; right?

A Correct.

Q Now I got sidetracked a little bit. We were talking about this operating committee and you said you became a member of that when you became the director of engineering; right?

A Yes.

Q Now aside from the names, you have given me four names here, what were the titles of other people that were members? Because I take it you got to be a member by having a certain job; is that right?

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A Generally.

Q I mean, you got to be a member not because you were John Jewell but because you were the director of engineering; right?

A Correct.

Q So what were the other job titles that made persons members of this operating committee?

A Vice president of manufacturing, vice president of marketing, vice president of human resources, vice president of law, vice president of sales.

I don't recall the others.

Q Was Mr. Lamb a member of this group?

A No.

Q At the time this committee was in being, who was the vice president of manufacturing?

A Harry Roeder.

Q And marketing, is that Fitzmaurice?

A Bob Fitzmaurice.

Q What was Mr. Bullis?

A Human resources.

Q Mr. McGraw was law?

A Correct.

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Q And Mr. Pepples before him; right?

A I am not sure.

Q The only one I don't have matched up here is sales. Who was that?

A That was Lanny Butler.

Q What was the role of the operating committee when you were a member of it?

A To operate the company.

Q Did it have meetings?

A Yes.

Q What did you talk about at those meetings?

A Issues of interest to Mr. Sandefur.

Q Was Mr. Kohnhorst a member of that committee?

A Could you be more specific?

Q Well, it just occurs to me you listed a bunch of VP's and he was a VP; wasn't he? So it makes me think maybe he was a member of that committee.

A You need to be more specific for me to answer the question.

Q I don't understand how I can be.

Was Mr. Kohnhorst a member of the

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operating committee?

A At any time?

Q At any time, ever.

A Yes.

Q Did he at some point cease to be a member of the committee before the committee went out of existence?

A Yes.

Q When?

A 1987.

Q Why?

A He transferred from Brown and Williamson.

Q To where?

A BATUS.

Q Is he back at B&W now?

A Yes.

Q Did he return to B&W when BATUS ceased to exist? Sometime last fall I guess it was.

A I am not sure what you are asking.

Q Well, I will ask it differently.

When did he come back to B&W from BATUS?

A After about two years.

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Q When he went to BATUS, what was his job at B&W when he left?

A Vice president of RD&E.

Q Who filled that position when he went to BATUS?

A No one.

Q Who took over his responsibilities when he went to BATUS?

A No one.

Q Who ran RD&E when he went to BATUS?

A No one.

Q Did RD&E cease to exist when he went to BATUS?

A Yes.

Q Is that when machinery development and process development went to you in Macon?

A Yes.

Q Another big reorganization?

A Yes.

Q I can see why you can't keep it all straight.

But Kohnhorst is back now; right?

A Yes.

Q What is his job now?

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A Executive VP.

Q This operating committee, you said it had meetings.

Were they regular meetings? And by that I mean weekly? Monthly? Hourly? Whatever.

A Yes.

Q What was the period of their regularity?

A Dependent on the group's availability, once a week.

Q Did you discuss Capri at these operating committee meetings?

A I don't recall.

Q Did Mr. Sandefur ever express interest in Capri at these operating committee meetings?

A I don't recall.

Q Do you maintain files in your office down in Macon?

A Yes.

Q Were those files searched in conjunction with this lawsuit?

A Yes.

Q When?

A I don't recall.

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Q Who searched them?

A I did.

Q Who told you what to look for?

A The law department.

Q Who in the law department?

A I don't recall.

Q Was it a lawyer?

A I just don't recall.

Q Was it somebody from B&W or somebody from Mr. Nicodema's law firm?

A At Brown and Williamson.

Q Was it Chuck Lamb?

A I don't recall.

DI Q What kind of documents were you told to look for?

Don't answer until they are through having a talk. It is getting close to the edge of attorney/client privilege, but I don't think it is into it.

MR. NICODEMA: I think that one has overstepped the bounds of privilege. And, on that basis, I will instruct the witness not to answer.

MR. SECREST: Well, I disagree with you. But we will fight that out one of these

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days.

Q Did you find any documents in your search?

A No.

Q Did you, at the time you made this search, have any documents in your file that related to the Capri cigarette?

A No.

Q Did you have any documents in your file, at the time you made this search, that related to the machinery for the Capri cigarette?

A No.

Q Did you have any documents in your file, at the time you made this search, that related to work done by B.A.T. on slim cigarettes?

MR. NICODEMA: Object to the form of the question. It is vague as to what you mean by "slim cigarettes."

Q Can you answer my question, Dr. Jewell?

A Could you be specific as to slim cigarettes?

Q Just take anything less than 21

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millimeters. How is that?

THE WITNESS: Could you repeat the question, please.

(The record was read.)

A No.

Q Have you ever heard of a guy named John Luke?

A Yes.

Q Did you have any documents in your file, at the time you did this search, that referred or related to Mr. Luke?

A No.

Q Have you ever met Mr. Luke?

A Not to my knowledge.

Q Have you ever spoken to Mr. Luke?

A Not to my memory.

Q Have you ever corresponded with Mr. Luke?

A Not that I can recall.

Q Has Mr. Luke ever been to your factory in Macon?

A I don't know.

Q He could have been, you just don't know?

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A I don't know one way or the other.

Q Did Mr. Luke ever come to your facility in Louisville?

A Again, I don't know one way or the other.

Q Did you ever meet with anybody from B.A.T. regarding slim cigarettes or ultra slim cigarettes? If you want to call them that.

A Not that I can recall.

Q Is it fair to say that B&W is a member of the B.A.T. family of companies?

MR. NICODEMA: I will object to the form of the question. I think it is vague.

Q Can you answer my question, Dr. Jewell?

A I am not sure I understand it, the way it was phrased.

Q Well, B&W is in some way related to B.A.T.; isn't that right?

A What do you mean by "B.A.T."?

Q British American Tobacco Company.

A I am not aware of such a company.

Q British American Tobacco Company Ltd.

THE WITNESS: Would you reread that

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question.

(The record was read.)

A Well, again, what do you mean by "related"?

Q Have you ever used the word "related" before?

A Yes.

Q What do you understand it to mean?

A It has to do with my ancestry.

Q Have you ever heard of a company called B.A.T. UK&E?

A Yes.

Q Is there any relationship between B&W and that company?

MR. NICODEMA: I will object to the form of the question. As phrased, it is broad enough to be seeking legal conclusions as to any relationship between the companies.

Q Can you answer my question, Dr. Jewell?

A I don't think I can.

Q Over the years, you have dealt with colleagues employed by companies other than B&W on various projects; have you not?

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A Yes.

Q For whom did those colleagues work?

A Well, ultimately for B.A.T. Industries.

Q B.A.T. Industries is the top of the heap in this organization; is that right?

MR. NICODEMA: Object to the form of the question.

What do you mean by "the top of the heap"?

Q Can you answer my question, Dr. Jewell?

A No, I would prefer if you rephrase it.

Q What is B.A.T. Industries?

A As I understand it, that is Brown and Williamson's parent company.

Q What is B.A.T. Industries' relationship to B.A.T. UK&E?

MR. NICODEMA: I object to the form of the question, it seeks a legal conclusion.

MR. SECREST: It does not seek a legal conclusion.

Q Can you answer the question, Dr. Jewell?

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MR. NICODEMA: As phrased, it is overbroad. And it certainly does seek a legal conclusion.

Q Can you answer the question?

A I am not sure what the relationship is.

Q Do you know Norm Willis?

A Yes.

Q Have you had dealings with Norm Willis over the years?

A Yes.

Q For whom did Norm Willis work?

MR. NICODEMA: When?

Q When you had dealings with him.

A GR&DC.

Q Is that Group Research and Development Center?

A I believe that's right.

Q Who owned GR&DC?

MR. NICODEMA: I will object to the form of the question, it seeks a legal conclusion.

Q Can you answer my question, Dr. Jewell?

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MR. NICODEMA: Subject to the objection, you can give any understanding you might have.

A I am not sure who they reported to.

Q Was GR&DC a part of B.A.T. Industries?

A Yes, that's my understanding.

Q Did you, on occasion, have conventions where people from all around B.A.T. Industries met to discuss subjects of interest?

A What do you mean by "conventions"?

Q A big meeting.

MR. NICODEMA: Can you read the question back, please, prior to the qualification about "a big meeting."

(The record was read.)

A Yes.

Q In fact, you had one in Macon one year, right, to talk about expanded tobacco; isn't that right?

A That was a fairly limited group, yes.

Q But they were from all over this B.A.T. Industries group of companies; isn't that true?

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A They were from other B.A.T. companies.

Q And one of the attendees there was Mr. Willis from GR&DC; right?

A I don't recall.

Q Have you ever had any similar meetings, amongst people from various B.A.T. companies, relating to Capri?

A Yes.

Q When?

A I don't recall.

Q Where?

A In Macon.

Q Did you attend it?

A No.

Q How do you know it happened?

A The people were there.

Q Did you live in Macon at the time that it occurred?

A I believe I did.

Q So it was sometime after '85?

A Yes.

Q Was it before May 30th of '89?

A I don't recall.

RQ MR. SECREST: Mr. Nicodema, it sounds

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to me like there was a big meeting in Macon, people from other than B&W talking about Capri, sometime after late '85.

It may have been after May of '89. And if that's the case I know why you didn't give me documents.

But if it was before May of '89, I don't believe we have gotten any documents about any such meeting.

I would ask that you look into that and, if it was before May of '89, produce the documents. If it was after May of '89, just give us a phone call and tell us that's why we didn't get it and then we won't be curious anymore; all right?

MR. NICODEMA: We will take your request under advisement.

(Recess taken.)

Q Dr. Jewell, I am going to show you a couple of documents that have previously been marked in this litigation as Defendant's Exhibits 11 and 12 for identification.

Have you ever seen those before?

A Not that I recall.

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Q Have you seen either of them before?

A Not that I recall.

Q Have you ever heard of a patent to Mr. Luke?

A I don't recall.

Q Have you ever heard of a patent characterized as pertaining to the Capri cigarette?

MR. NICODEMA: Limit your answer to exclude any discussions you may have had with counsel or discussions with others based on attorney/client communications.

MR. SECREST: I take issue with that; I think that is too broad.

Q But you answer the question as best you can.

THE WITNESS: Would you repeat the question, please?

(The record was read.)

A Yes.

Q Whom did you hear about that patent from?

A I don't recall.

Q When?

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A I don't recall.

Q Where?

A I don't recall.

Q Did anybody ever show you a patent and call it the Capri patent?

A Not that I can recall.

Q Would you take a minute and just turn the pages of Exhibit 12, just glance at it. I am not asking you to read all that fine print, just turn the pages and look through it.

Having glanced at it briefly now, does it look familiar to you at all?

A No.

Q Looking at No. 12, you will see up there at the top it says "Patent number: Re. 32,615."

Do you understand that to mean that that is a reissued patent?

A I don't know what that means, one way or the other.

Q Have you ever heard of a reissued patent?

A Yes.

Q Do you remember when you and I were

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dealing with each other before, we reissued those DIET patents; right?

A Correct.

Q I will represent to you that this patent is the result of that same type of procedure, a reissue.

With that representation, were you aware of the Luke patent being reissued?

A Not to my knowledge.

Q If you look on the front of this Exhibit 12, in the right-hand column, down just above Abstract, it says "Attorney, agent, or firm - Charles G. Lamb."

He was the patent counsel of B&W; right?

A Correct.

Q This I am looking for a yes or no answer.

Did you discuss a reissue of the Luke patent with Mr. Lamb?

A No.

Q The same yes or no answer.

Did you have any discussions regarding the Luke patent with Mr. Lamb?

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A Not that I can recall.

Q When you searched your files in conjunction with this lawsuit, did you find any documents relating to cigarettes of 21 millimeters or less circumference?

A No.

Q Did you find any documents relating to machinery for manufacturing such cigarettes?

A No.

Q When you conducted your search of your files, did you find any documents relating to cigarettes of less than 21 millimeters manufactured by anyone other than B&W?

A No.

MR. NICODEMA: I think he answered that question. Your prior one was broader than that, it encompassed this question.

MR. SECREST: Can you read that back.

(The record was read.)

MR. NICODEMA: He can answer it, but you asked it already.

MR. SECREST: Was that an objection?

MR. NICODEMA: Yes.

MR. SECREST: Well, call it an

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"objection." If you have an objection, say one.

I don't want to be lectured here about how to practice law.

MR. NICODEMA: I don't care what you want.

MR. SECREST: If you have got an objection, make it.

MR. NICODEMA: That's an objection.

MR. SECREST: You didn't say "objection."

MR. NICODEMA: I just said it.

MR. SECREST: Yes, long after the fact.

Q Did you answer my question, Dr. Jewell? If you did, I missed it; I'm sorry.

A Yes.

Q What was the answer you gave me?

A No.

Q Have you ever heard of a cigarette called Virginia Slims Superslim?

A Yes.

Q Have you ever seen one?

A Yes.

Q When?

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A A couple of weeks ago.

Q Did you ever see one before May 30th, 1989?

A I can't recall.

Q Do you recall the first time you saw a Virginia Slims Superslim?

A No, I don't recall.

Q Was it before or after May 30th, 1989?

A I don't recall.

Q I am going to ask the reporter to mark, as Defendant's Deposition Exhibit 253 for identification, a copy of an article entitled "A Weight Loss Technique For Determining Rate of Static Burn." It bears the date December 11, 1970 on its front.

For the record, I will tell you this is a duplicate of Exhibit 160, but this is a better, easier to read, copy. So I am going to mark it again.

(Whereupon, document above referred to was marked as Defendant's Exhibit 253 for identification, as of this date.)

Q Dr. Jewell, would you take a minute to

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look through Exhibit 253.

You have looked at it?

A Yes.

Q Have you ever seen that document before?

A No.

Q If you look on the front page, one of the authors there is R.L. Rice.

Do you know Mr. Rice?

A Not that I recall.

Q How about R.S. Perrier?

A Not that I recall.

Q Or V.C. Runeckles?

A Not that I recall.

Q These fellows -- I assume they are fellows, I don't know, maybe they ain't, I know Mr. Rice is, but -- these authors are indicated as being associated with Imperial Tobacco Products Ltd. of Montreal.

Have you ever had any dealings with Imperial?

A Not that I can recall.

Q This document is indicated as being an excerpt from a magazine called Tobacco Science.

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Are you familiar with that magazine?

A Yes.

Q Do you read it?

A Yes.

Q Do you read it regularly?

A No.

Q How often does it come out?

A I don't recall.

Q What determines, to you, whether or not you read a particular issue of Tobacco Science?

A If I have the time.

Q Kind of like whether I read the ABA Journal or not.

Does Brown and Williamson maintain back issues of Tobacco Science in a library?

A I don't know.

Q When you were still in Louisville, there was a research library; was there not?

A Yes.

Q Were copies of Tobacco Science maintained in that research library?

A What do you mean by "maintained"?

Q Kept.

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A Well, again, I am not sure how to answer your question.

Q What is hard about that?

A I just don't understand the question.

Q Well, let me come at it this way.

Did B&W subscribe to Tobacco Science?

A Yes.

Q And when an issue came into B&W, did it come into that library?

A Yes.

Q Did the librarian then circulate it to people or put it up on the shelf?

A Well, I am aware of that copies were circulated.

Q Was a copy circulated to you?

A Could you be more specific?

Q Dr. Jewell, I really don't know how to be much more specific about that question. And I asked, was a copy of Tobacco Science circulated to you.

I don't understand why that is not sufficiently specific. If you can tell me, I will try.

A I can answer it multiple ways.

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Q Okay, let's start with the first way and run through them.

A Yes.

Q What is the second way?

A No.

Q What is the third way?

A That's it.

Q Okay. What determined whether you answered "yes" or "no" there?

A Time.

Q So at some time during your career it was circulated to you and at some time it was not; is that true?

A Yes.

Q Was it circulated to you as you moved higher in the organization as opposed to when you were the new kid on the block?

A I can't generalize in that way.

Q How can you generalize over time?

A It would be dependent on the state of the organization.

Q Do you mean at certain times the library circulation system was more organized than at other times?

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A No.

Q What did you mean by that, then?

A As the organization would change, the routing distributions would change periodically.

Q When you did, at whatever time, get a copy of Tobacco Science routed to you, did it have a list of names stapled on the front or something like that?

A Yes.

Q And you would look at it and mark your name off and then send it on; right?

A Yes -- excuse me, I would look at it, and/or pass it on, depending on the availability of my time.

Q Eventually you would pass it on, though; right?

A Yes.

Q Maybe not immediately. Once everybody on that list of names had seen it, where did the magazine go?

A Back to the library.

Q And what happened to the magazine once it got back to the library?

A I don't know.

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Q Have you ever gone in that library to look for a back-issue of Tobacco Science?

A Not that I can recall.

Q When you were in Louisville, back before late '85, was this person, Carol Lincoln, in charge of that library?

A I am not sure.

Q Where is Carol Lincoln now? Is she in Louisville or Macon?

A Louisville.

Q Do you recall her having any predecessor?

A Yes.

Q What was the name of that predecessor?

A I don't recall.

Q Did B&W have more than one subscription to Tobacco Science?

A I don't know.

Q Did you ever see this list of names stapled on the front, different versions of that list of names? That's not very clear; is it?

Let me try it again.

What I am getting at is, like around here we get these legal periodicals, little

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newspaper things, and we get several copies; okay? And on the front there will be a list of names stapled and my name will be on one list, and maybe Nix's is on the same list, and then there will be a whole -- another list with half a dozen folks on it.

So there is multiple copies being circulated.

Was that the case with Tobacco Science at B&W?

A I don't know.

Q The date of this article, December 11, 1970, you were at the University of Louisville then; right?

A Correct.

Q Were you in your Ph.D. program at that time?

A No.

Q Were you an undergrad?

A Correct.

Q Did you work for B&W during your undergraduate career?

A No.

Q Did you work anywhere outside of

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University of Louisville while you were an undergrad?

A Yes.

Q Where did you work?

A Numerous co-ops and part-time jobs.

Q Anything having to do with tobacco?

A No.

Q After you got your bachelors degree and went into graduate studies, did you work outside of that study program?

A I am not sure I understand the question.

Q Well, you are going to school, eventually to get a Ph.D.; did you have any other jobs, other than going to school?

A Yes.

Q Were any of those other jobs with B&W?

A Yes.

Q When did you start working for B&W?

A 1972.

Q Before or after you got your degree, Ph.D.?

A Before.

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Q How long before?

A Four years.

Q When did you get your Ph.D.?

A 1976.

Q Okay, I understand now.

When you went to work at B&W in '72, had you completed a masters degree then?

A Yes.

Q Then, over the course of your first four years of work there, you picked up the Ph.D; is that right?

A Yes.

Q During your masters degree studies, prior to going to work in '72, did you do any part-time or co-op work with B&W?

A No.

Q Dr. Jewell, I am going to show you what has previously been marked as Plaintiff's Exhibit 109 for identification.

Would you take a minute to glance at that, to the degree you need to, to tell me whether or not you have seen that document before.

Have you seen that document before?

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A Not that I recall, no.

Q My understanding, Dr. Jewell, is that this article was originally in that magazine Tobacco Science and then was reprinted in the magazine you see on the lower right-hand corner, Tobacco International.

Have you ever heard of a magazine called Tobacco International?

A Yes.

Q Do you read it?

A Sporadically.

Q Does B&W subscribe to Tobacco International?

A Yes.

Q Do you see that magazine in the same way we discussed you seeing copies of Tobacco Science?

A Yes.

Q And by the same token, when it has made its circulation route, does Tobacco International go back to the library at B&W?

A Yes.

Q Is it then kept in the library?

A I don't know.

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Q Have you ever gone down to the library to look for a back-issue of Tobacco International?

A Not that I can recall.

Q On the front page here, there is four authors listed. Do you know any of those gentlemen?

A Not that I can recall.

Q The first guy listed there, F.E. Resnik, that is Frank Resnik. Does that ring a bell with you?

A No.

Q Or Willie Houck? Have you ever heard of Willie Houck?

A No.

Q And Mr. Geiszler there, his first name is Warren, I believe, does that ring a bell?

A No.

Q And J.E. Wickham, goes by Ed, have you ever heard of Ed Wickham?

A Not that I can recall.

Q Have you ever had any dealings with anybody over at Philip Morris? Besides from the litigation we had some years ago.

A Not that I can recall.

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Q Do you go to conventions having to do with Tobacco Science?

A Yes, I have.

Q How many such conventions have you been to?

A I don't recall.

Q Have you ever been to one in Paris?

A No.

Q What conventions can you recall going to?

A There is only one that comes to mind and, I am embarrassed to tell you, I can't recall if it was in Richmond or Winston-Salem.

Q What was the subject matter of that convention?

A It was a convention that involved both equipment exhibitors as well as the presentation of some papers.

Q Did you present a paper there?

A No.

Q Have you ever presented a paper at one of these conventions?

A Again, could you clarify "these conventions"?

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Q Yes, the kind of conventions we were talking about, one of which you went to either in Winston-Salem or Richmond.

A No.

Q Do you recall attending any conventions other than this one that was in Winston-Salem or Richmond?

A Not that I can recall.

Q Having talked about it a few minutes here now, can you recall whether it was Winston-Salem or Richmond?

A No.

Q They are very different towns, you know.

A Like I say, I am embarrassed to tell you, I don't know.

Q Can you put a year on when this convention was?

A No.

Q Ten years ago? Five? Can you ballpark it for me?

A Closer to five than ten.

Q A little while ago, I asked you about something called Ten Cent brand cigarette.

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I believe you told me you never heard of that; is that right?

A That's correct.

Q Have you ever heard of a cigarette called Harlequin, maybe it is Harlequin. I don't know how you pronounce it. Dunhill?

A No.

Q How about Lady 269?

A No.

Q Or Milo?

A No.

Q Anturk?

A No.

Q Have you ever visited any cigarette factories run by tobacco companies that are a part of B.A.T. Industries other than Brown and Williamson?

A Yes.

Q Which ones?

A I have been to two of the B.A.T. CF factories.

I have been to the Liverpool and Southampton factories.

Q Any others?

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A That's all I can recall.

Q You used the term, if I heard you right, B.A.T. CF?

A Yes.

Q What does that stand for?

A It is German, it stands for B.A.T.'s company in Germany.

Q Cigarette Fabricken or something like that?

A I am not sure, but it is our German affiliate.

Q When you visited these various factories, were cigarettes of less than 21 millimeters in circumference being made in any of them?

A What do you mean by "being made"?

Q Just what it means in the English language; made, manufactured.

A I can interpret it a couple of different ways.

Could you restate the question?

Q Well, let me ask you this. What do you understand the word "made" to mean?

A To see the cigarette being fabricated

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while I was there.

Q Okay. With that definition, can you answer my question now?

A Yes.

Q Would you do so, please?

A Yes.

Q So you saw cigarettes --

A Excuse me, the answer is no.

Q Let me see if I understand now.

A I am trying to answer your specific question. I think we got a little balled up in which answer I have given to which question.

Q My question that I was trying to get an answer to was, during your visits to any of these various factories were cigarettes less than 21 millimeters in circumference being made at any of them?

A No.

Q And I think with your definition that you gave me, of "being made," what you meant was you didn't see them actually being made in rods and all like they are made in the factory; is that right?

A Correct.

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Q At the time that you visited these various factories, did any of them have the capability of making cigarettes of less than 21 millimeters in circumference?

A Yes.

Q Which ones?

A One of the B.A.T. CF factories.

Q What was the name of the cigarette that it was making with a circumference less than 21 millimeters?

A I am not sure I can answer that question.

Q Why not?

A You are changing terminology again. So I am a little confused how to answer the question.

Q By what confusion; name of the cigarette? Is that what confused you?

A No.

Q Where did I change terminology on you? I don't think I had.

A "Being made" versus "capability."

Q Okay. What was the name of the cigarette that that German factory had the

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capability to make when you were there?

A Caprice and Capri.

Q What was the circumference of the Caprice that this factory had the capability of making?

A I am not sure.

Q Was it less than 21 millimeters?

A Yes.

Q Was it less than 19.5?

A Yes.

Q Was it less than 18?

A I am not sure what their specific specification was.

Q Did it exhibit higher draw characteristics?

A I am not familiar with the Caprice product.

Q Was it more efficient?

A Again, I am not familiar with the Caprice product.

MR. NICODEMA: Just so we are clear on time frame, please limit your answers to on or before May 30, 1989.

A Oh, excuse me, this visit occurred

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post that date. I am mistaken in this testimony, then.

Q I don't think any great harm has been done, but....

Q I am going to ask you one last question about this. And he may object, he may not; I don't know.

You said that this company had the capability to make Capri and Caprice.

The Capri that it had the capability to make, is that the same as the Capri that is made in Macon?

MR. NICODEMA: I will object to the form of the question based on the cutoff and based on vagueness.

Q Can you answer my question?

A I am just not familiar with international specifications.

Q Dr. Jewell, I am going to hand you a copy of a document that has previously been marked as Defendant's Exhibit 234 for identification.

Would you take a minute to look at that document, to the extent you need to, to tell me whether or not you have seen it before.

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Have you seen it?

A I don't recall having seen it.

Q Would you look, sir, back at the next-to-last page, it is the one marked BWT109-147.

Have you got that page?

A Yes.

Q Over on the left-hand margin, there is the notation "RDS/SMR."

RDS at B&W, does that indicate who the author of this document was?

A I don't know.

Q Is there any convention at B&W for indicating an author by their initials like that?

A I am not aware of a general convention.

Q Have you ever heard of a fellow named Dean Sharp?

A Yes.

Q Who is Mr. Sharp?

A He is an individual in our marketing department.

Q Was he in the marketing department back in March of '86?

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A I don't recall.

Q Did you have any dealings with Mr. Sharp on the Capri project?

A Not that I can recall.

Q If you would look back at the front page of this, up at the top, it talks about Project Visa.

Do you see where I am at?

A Yes.

Q And then, down in II, it has this list of physical dimensions. Do you see that?

A Yes.

Q Early in the morning, this morning, I asked you if you knew of something called Project Visa.

Does this refresh your recollection as to what Project Visa was about?

A No.

(Recess taken.)

Q Dr. Jewell, have you ever heard of Project Sabre?

A I can't be sure.

Q What information do you have about Project Sabre, if any?

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A It sounds like it could have been a code word for one of our projects, but I just don't recall.

Q Do you recall whether or not it related to Capri-type cigarettes?

A I don't recall.

Q What was Project Cherokee?

A I believe that's a project that has been recently initiated in R&D.

Q My understanding is it is something older than recent because somebody told us about it, and he, (indicating), wouldn't let them tell us about it if it was very recent.

But let me tell you what I know about it, or what I think I know.

It had something to do with a Capri-type skinny cigarette with brown paper.

Does that ring a bell with you?

A No.

Q Do you recall any project, by whatever name, at B&W that was directed to a Capri-type cigarette with brown paper?

A No.

Q What was Project Clover?

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A I don't recall. I can never keep these names straight.

Q Did B&W work on a Capri-type cigarette exhibiting low sidestream smoke?

A I don't recall one way or the other.

Q Do you know what "low sidestream smoke" is?

A In layman terms.

Q Tell me what you understand that term to mean.

A A cigarette with low sidestream.

Q What do you understand "sidestream smoke" to be?

A A smoke that is not inhaled.

Q What was Project Pegasus?

A I don't recall.

Q Did B&W work on a project to make Capri-type cigarettes of the dimension 67 millimeters by 19 millimeters?

A I don't recall.

Q How about 67 millimeters by 22 millimeters?

A I don't recall.

Q What was Project Sable?

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A I don't recall.

Q What was Project Sapphire?

A I don't know.

Q Project Emerald?

A I don't know.

Q What is the circumference of a Capri cigarette?

A As I recall, it is 17 millimeters.

Q Did B&W work on any Capri-type cigarettes having a circumference of 19 millimeters?

A I don't recall.

Q What was Project Cirrus?

A I don't recall.

Q What was Project Janus?

A I don't recall.

Q Do you have any recollection of Project Janus relating to a low sidestream cigarette?

A I just don't have any memory one way or the other.

Q Did B&W work on a project to make a Barclay ultra light cigarette having a circumference of 17 to 19 millimeters?

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A I am not sure.

Q Did B&W work on any extension of the Barclay brand into the 17 to 19 millimeter range?

A Yes.

Q What was the nature of that work?

A It was a super slims line extension that was tested.

Q In what way was this a line extension?

A I don't recall the specific product attributes.

Q What was the name of the product?

A I don't recall the name.

Q What were the differences, if any, between that product and Capri?

A I don't know.

Q Was that product test-marketed?

A Yes.

Q Where?

A I don't recall.

Q Was it test-marketed in Atlanta?

A I can't be sure.

Q What was the result of that test market?

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A I don't recall having seen it.

Q Did the product, after test market, go into commercial production?

A No.

Q Was this test market carried out sometime between November '87 to April '88?

A I don't recall.

Q Did the product have a cork tip, as opposed to just white paper tip?

A I don't recall.

Q Do you recall any product that B&W made, whether commercially or for test, having cork tipping on it?

A I just can't recall one way or the other.

Q Cork tipping, what I mean by that is, you know, this speckled brown paper, (indicating), like I am holding up.

That is not really cork; right?

A Correct.

Q But that's what I am talking about when I am talking about cork tipping; is that what you understood?

A Yes.

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Q And during that last couple of questions I was pointing at the tipping on a Merit cigarette that I just happened to have in my pocket.

Dr. Jewell, I am going to hand you a copy of a document that has previously been marked as Defendant's Exhibit 77 for identification.

Would you take a moment to look through that document, to the extent you need to, to tell me whether or not you have seen it before.

Have you seen this document before?

A Not that I can recall.

Q The date that appears on the front of this document is November of '86.

At that time, you were the branch engineer; is that right?

A Yes.

Q And you were not yet the director of engineering; correct?

A Correct.

Q Would you look, sir, way back toward the back, there is a page that is marked BWH37-24.

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A Figure 10?

Q Yes.

A Okay.

Q Have you seen that document before?

A Not that I recall.

Q This layout of machinery here, is this the sort of activity for which your group was responsible when you were branch engineer?

A No.

Q Is this a layout of how the machines would actually be placed on the factory floor?

A I don't know.

Q Are the machines, as depicted on this drawing, laid out on the factory floor in this way now? Or as of May 30, '89?

A I am not sure.

Q When you look at this drawing, Dr. Jewell, do you take this to be somebody's attempt to lay out how the machines are actually put on the floor? Or is it just kind of a more schematic-type depiction?

A I can't be sure just looking at this figure.

Q Do you have any information about who

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drew this picture?

A No.

Q Going back to the front of the document, the cover page here, there is a name up in the upper right-hand corner, P.H. Harper.

Do you know who P.H. Harper is?

A Yes.

Q Back at this time, who was P.H. Harper?

A Pat Harper.

Q Is that a Mr. Or a Ms.?

A Mr.

Q What organization was Mr. Harper in?

A I don't recall.

Q Was Mr. Harper in Macon or Louisville?

A He was in Louisville.

Q Was he in RD&E?

A I am not sure.

Q My colleague tells me here that earlier testimony in this case has established that Mr. Radley prepared this document.

Do you know Mr. Radley?

A Yes.

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Q Did you provide any information to Mr. Radley for him to prepare this document?

A Not that I can recall.

Q Back around this time frame, what group was Mr. Radley in?

A I can't be sure.

Q Was he in RD&E?

A Yes.

Q Was he in machinery development?

A I can't be sure.

Q Product development?

A Same answer.

Q Aside from this document, did you have dealings with Mr. Radley on Capri?

A Not that I can recall.

Q After this reorganization that you spoke about a while ago, where machinery development and process development went under your group, did Mr. Radley come within your group?

A Yes.

Q In what capacity did he come into your group?

A I can't recall.

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Q Is he still in your group?

A No.

Q Excuse me?

A No.

Q When did he leave your group?

A I don't recall.

Q During the time that he was in your group, what was his job?

A He worked on packaging-related projects.

Q Is that part of machinery development?

A Yes.

Q Would you look, sir, at page BWH37-05.

There is a great big stamp in the middle of the page that says "redacted."

Do you see that?

A Yes.

Q Hard to miss; right?

Right under that, it says: "The blend contains no added stem nor expanded tobacco. Stem was removed from the blend formulation because," it goes on.

My question, sir, is when was stem

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